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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,211	03/29/2004	Takuro Eika	082418-000500US	5134
20350 7590 02/22/2007 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER PINHEIRO, JASON PAUL	
			ART UNIT 3714	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/22/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

**Application No.**

10/813,211

**Applicant(s)**

EIKA, TAKURO

**Examiner**

Jason Pinheiro

**Art Unit**

3709

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03/29/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 08/23/2004 and 07/17/2006.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because reference numbers "523", "524", and "525" in Fig. 5 should be changed to --513--, --514--, and --515--, respectively, as mentioned in the specification (Pg. 15, Line 1); reference number "402" in Fig. 10 should be changed to --401-- as mentioned in the specification (Pg. 21, Line 13). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the

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description: "601" (Pg. 16, Line7). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.

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- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

3. The disclosure is objected to because of the following informalities:

The cross reference to the previous application is located as the last paragraph of the specification, any cross reference to prior applications should be stated as the first lines following the title of the invention, as shown above. Appropriate correction is required.

#### ***Claim Objections***

4. Claims 1, 3, 6, 7 are objected to because of the following informalities:

Regarding claim 1: "a road condition" in line 9 should be changed to "the road condition"

Regarding claim 3: "...the stored "reference frictional force at a current position of the moving object on the road" in accordance with..." in lines 5-6 should be changed to --...the stored reference frictional force at a current position of the moving object on the road in accordance...--

"...a stored "current condition of the moving object"." in lines 6-7 should be changed to --...the stored current condition of the moving object. --

Regarding claim 6: "the stored "passage number of the moving object at the current position on the road"." in lines 3-4 should be changed to --a stored passage number of the moving object at the current position on the road. --

Regarding claim 7: "the stored "passage number of the moving object at the current position on the road" increases." in lines 3-4 should be changed to -- a stored passage number of the moving object at the current position on the road increases. --

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim is directed to a computer program, data structures not claimed as embodied in computer-readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 1 recites the limitation "the current position" in line 8. There is insufficient antecedent basis for this limitation in the claim.
8. Claim 6 recites the limitation "the stored "passage number..." in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.
9. Claim 7 recites the limitation " the stored "passage number... "" in line 3. There is insufficient antecedent basis for this limitation in the claim.
10. Claim 8 recites the limitations " the stored passage number" in lines 3-4; and "said display unit" in line 5. There are insufficient antecedent bases for these limitations in the claim.

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***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 9, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (US 5921780) in view of Serizawa (EP 0872266 A1).

Myers '780 discloses An apparatus for moving a moving object on a road in a virtual world (Col. 3, Lines 9-12); an input reception unit which receives an operational input from a player (Col. 9, Lines 7-15); a storage unit which stores a condition of the moving object (including a position of the moving object) (Col. 9, Lines 33-35) and a road condition of the road (Col. 9, Lines 37-40); a calculation unit which calculates an influence received by the moving object based on the received operational input from the player, a stored current position of the moving object (Col. 9, Lines 28-32), and a road condition at the current position (Col. 9, Lines 43-47); and an update unit which updates the stored condition of the moving object in accordance with the calculated influence (Col. 9, Lines 40-43). However Myers does not disclose that the apparatus is a game apparatus; and that update unit updates the stored road condition in accordance with a change in the condition of the moving object.



Serizawa '266 does disclose a game apparatus (Col. 3, Line 36) in which the update unit updates the stored road condition in accordance with a change in the condition of the moving object (Col. 39, Lines 39-43).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to Serizawa's teachings into Meyers' apparatus in order to create a game apparatus with real life simulations in order to create a more enjoyable game for participants to play.

13. Claims 2, 3, 4, 5, 6, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (US 5921780) in view of Serizawa (EP 0872266 A1) as applied to claims 1, 4, 5, 9, 10, and 11 above, and further in view of Copperman (US 5474453).

Regarding claim 2: Meyers '780 and Serizawa '266 disclose that which is discussed above. Meyers '780 further discloses that the update unit updates the stored position of the moving object (Col. 9, Lines 40-43). However neither Meyers nor Serizawa disclose that said storage unit further stores a velocity of the moving object as the condition of the moving object; said calculation unit calculates an acceleration of the moving object as the influence received by the moving object; and said update unit updates the stored position and velocity of the moving object in accordance with the calculated acceleration.

Copperman '453 does disclose that said storage unit further stores a velocity of the moving object as the condition of the moving object (Col.

10, Lines 40-43); said calculation unit calculates an acceleration of the moving object as the influence received by the moving object (Col. 15, Lines 22-23).

Regarding claim 3: Serizawa '266 further discloses said storage unit stores a reference frictional force at each position on the road as the road condition (Col. 4, Lines 57-58 – Col. 5, Lines 1-3); and that conditions of the moving object are calculated by obtaining a frictional force given on the moving object by changing the stored reference frictional force at a current position of the moving object on the road" in accordance with a stored current condition of the moving object (Col. 26, Lines 43 – Col. 27, Lines 38). However neither Meyers nor Serizawa disclose that said calculation unit calculates the acceleration of the moving object.

Copperman '453 does disclose that said calculation unit calculates the acceleration of the moving object (Col. 15, Lines 22-23).

Regarding claim 4: Meyers '780 and Serizawa '266 disclose that which is discussed above. Serizawa '266 further discloses a display unit (Col. 15, Lines 11-12), wherein said display unit displays at least one of the stored position (Col. 18, Lines 20-24) and velocity of the moving object (Col. 19, Line 38-40).

Regarding claim 5: Meyers '780 and Serizawa '266 disclose that which is discussed above. Serizawa further discloses that said storage unit stores as the road condition (Col. 8, Lines 43-48), a passage number

representing a number of times the moving object passes through a predetermined position on the road (Col. 17, Lines 44-48); said update unit updates the stored passage number of the moving object in accordance with a change in the stored position of the moving object (Col. 17, Lines 49-51); and said display unit further displays an image which is changed in accordance with the stored passage number of the moving object (Col. 21, Lines 15-17) (Fig. 14).

Regarding claim 6: Meyers '780 and Serizawa '266 disclose that which is discussed above. Serizawa further discloses that conditions of the moving object are calculated by obtaining a frictional force given on the moving object (Col. 26, Line 43 – Col. 27, Line 38) in accordance with the stored passage number of the moving object at a current position on the road (Col. 7, Lines 44-48). However neither Meyers nor Serizawa disclose that said calculation unit calculates the acceleration of the moving object.

Copperman '453 does disclose that said calculation unit calculates the acceleration of the moving object (Col. 15, Lines 22-23).

Regarding claim 7: Meyers '780 and Serizawa '266 disclose that which is discussed above. Serizawa further discloses that conditions of the moving object are calculated in a manner that the acceleration increases as the stored passage number of the moving object at the current position on the road increases (Col. 25, Lines 7-13). However

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neither Meyers nor Serizawa disclose that said calculation unit calculates the acceleration of the moving object.

Copperman '453 does disclose that said calculation unit calculates the acceleration of the moving object (Col. 15, Lines 22-23).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate Copperman's teachings into the combined apparatus of Meyers and Serizawa in order to produce a more enjoyable and interesting game for a player to play.

14. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (US 5921780) in view of Serizawa (EP 0872266 A1) as applied to claim 1 above, and further in view of Copperman (US 5474453) as applied to claims 1-7, and 9-11 above, and further in view of Yoshida (EP 1029569A2).

Meyers '780 and Serizawa '266 disclose that which is discussed above. Serizawa also discloses updating information in accordance with the stored passage number of the moving object (Col. 27, Lines 9-22). However Meyers, Serizawa and Copperman do not disclose that said storage unit further stores an objective route within the road; and said update unit updates the stored objective route; and said display unit further displays the stored objective route.

Yoshida '569 does disclose that said storage unit further stores an objective route within the road (Pg. 2, Para. [0011], Lines 1-2); and said update unit updates the stored objective route (Pg. 9, Para. [0069], Lines

3-5); and said display unit further displays the stored objective route (Pg. 3, Para. [0011], Lines 3-4).

Therefore it would have been obvious to one skilled in the art at the time the invention was made to integrate Yoshida's teachings into the combined apparatus of Meyers, Serizawa, and Copperman in order to create an ever changing game which will be more interesting and exciting for the player to play.

### ***Conclusion***

**15.** The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Takemoto et al (US 5707237) discloses a driving simulation system.

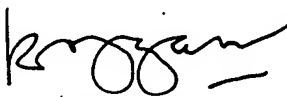
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Pinheiro whose telephone number is 571-270-1350. The examiner can normally be reached on M - F 8:00 AM - 4 PM;.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jong-Suk (James) Lee can be reached on 571-272-7044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JP  
01/09/2007

  
**KIM NGUYEN**  
**PRIMARY EXAMINER**